

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16315 of LeVern A. Lacy, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Section 223 to allow an addition to an existing nonconforming structure that does not meet the maximum allowable percentage of lot occupancy provision (Subsection 403.2), the minimum rear yard setback requirements (Subsection 404.1), or the minimum width of open court requirements (Subsection 406.1) for a deck addition to a single-family dwelling in an R-3 District as premises 5025 4th Street, NW (Square 3302, Lot 33).

HEARING DATES: February 18, May 6, September 2 and November 18, 1998
DECISION DATE: December 2, 1998

SUMMARY ORDER

At the public hearing of November 18, 1998, the Board amended the application from one requesting **a variance** from the maximum allowable lot occupancy provision (Subsection 403.2); a variance from the minimum rear yard setback requirements (Subsection 404.1); and a variance from the minimum width of an open court requirements (Subsection 406.1), to a **special exception under Section 223-Additions to One-Family Dwellings or Flats (R-1)**. Section 223 became effective after the subject application was filed, but prior to the November 18, 1998 hearing. Given that no one appeared at the hearing in opposition to the application, the Board also waived the notice requirements as they pertain to the amended relief. Prior to the Board's decision in the application on December 2, 1998, the applicant submitted into the record an amended self-certification form reflecting the special exception relief.

The Board provided proper and timely notice of public hearing on the original variance application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4D and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 4D. ANC 4D, which is automatically a party to this application, did not submit a written statement related to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR Section 223. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board hereby **ORDERS** that this application be **GRANTED**.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3 – 0 (Sheila Cross Reid, Betty King and Jerry H. Gilreath to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
for **SHERI M. PRUITT-WILLIAMS**
Interim Director

Final Date of Order: DEC 15 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR § 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16315

As Interim Director of the Office of Zoning, I hereby certify and attest that on DEC 15 1998 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

LeVern A. Lacy
5025 4th Street, N.W.
Washington, D.C. 20011

Stan Wilson
5020 Oglethorpe Street
Riverdale, Maryland 20737

Attested By:


for **SHERI M. PRUITT-WILLIAMS**
Interim Director

Date: DEC 15 1998

Att./twr